REMARKS

The Examiner has rejected Claims 1, 3-8 and 17-23 under 35 U.S.C. 102(e) as being anticipated by Fudge (U.S. Patent No. 6,205,552). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to independent Claims 1, 8 and 15.

With respect to each of the independent claims, the Examiner has relied on Col. 2, lines 22-27 and 31-40 in Fudge, as excerpted below, to make a prior art showing of applicant's claimed "executing a port scan of only the first set of ports associated with the selected risk-assessment modules, for reducing the number of ports scanned during the port scan" (see this or similar, but not identical language in each of the independent claims).

> "Further, it would be desirable to scan a given shareable device for only those services provided by that shareable device rather than taking the time to scan for all possible services. Finally, it would be desirable to obtain reports summarizing the results of such scanning in a timely fashion before damage is incurred through any security exposures." (Col. 2, lines 22-27)
>
> "The present invention achieves a timely and cost effective system vulnerability scanning of shareable devices by first eliminating the unused IP addresses, as well as those corresponding to non-shareable devices, and then using the scanning software only upon those devices at the addresses already identified as being shareable. The scanning can be further restricted to only the services offered by each individual shareable device. Reports may then be generated listing the devices found by IP address along with any vulnerabilities detected." (Col. 2, lines 31-40)

Applicant respectfully asserts that such excerpts merely teach "scanning...devices at the addresses identified as being shareable" and "scan[ning] a given shareable device for only those services provided by that shareable device." Clearly, such excerpts do not disclose "executing a port scan of only the first set of ports associated with the selected risk-assessment modules," as claimed by applicant (emphasis added). In fact, after reviewing the entire Fudge reference, applicant notes that Fudge even *teaches away* from such specific claim language. In particular, Fudge teaches "instantiat[ing] appropriate scanning processes as indicated in the profile to begin testing the specified address" (see Col. 3, lines 53-55-emphasis added) where the profile "list[s]

all of the services that were detected in step 212 for the particular address" (Col. 4, lines 35-38) and continues to list all shareable services for all shareable addresses (see Fig. 2).

Thus, in Fudge, scanning processes are executed for all shareable addresses and associated shareable services, while applicant alternatively claims executing a port scan for a first set of ports that are associated with selected risk-assessment modules, as specifically claimed by applicant. To emphasize, applicant claims executing a port scan of only a first set of ports associated with selected risk-assessment modules, whereas Fudge teaches executing scanning processes for all shareable devices and services without regard to any type of selected scanning processes.

Still with respect to each of the independent claims, the Examiner has relied on Col. 3, lines 35-39 and 51-55 in Fudge, as excerpted below, to make a prior art showing of applicant's claimed "disabling the risk-assessment modules associated with the second set of ports to minimize the duration of the risk-assessment scan" (see the same or similar, but not identical claim language in each of the independent claims).

> "Address database 130 contains a list of all addresses within network 100. As shown, the contents of address database 130 are categorized into unused addresses 132, non-shareable device addresses 134, and shareable device addresses 136." (Col. 3, lines 35-39)
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> "For each address-profile combination entered into scan log 152, vulnerability scan server 160 instantiates appropriate scanning processes as indicated in the profile to begin testing the specified address." (Col. 3, lines 51-55)

Applicant respectfully asserts that the above excerpts relied on by the Examiner merely teach categorizing addresses within a network as unused, shareable, and non-shareable along with instantiating scanning processes as indicated in a profile. However, nowhere in the above excerpts is there any mention of disabling risk-assessment modules, as claimed by applicant. In fact, Fudge expressly discloses a scan server that "instantiates appropriate scanning processes as indicated in the profile" (emphasis added), but not that disables any processes.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as

contained in the claim. *Richardson v. Suzuki Motor Co.*868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Fudge reference, especially in view of the amendments made hereinabove. A notice of allowance or a specific prior art showing of each of the foregoing claimed features, in combination with the remaining claimed features, is respectfully requested. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has substantially incorporated the subject matter of Claims 4, 5 and 7, as originally incorporated (at least in part) into independent Claims 22 and 23, into independent Claims 1, 8 and 15.

With respect to Claim 5 et al., presently incorporated into each of the independent claims, the Examiner has relied on Col. 3, lines 39-44 in Fudge to make a prior art showing of applicant's claimed "comparing the port associated with each risk-assessment module with the stored third set of ports" (see this or similar, but not identical language in each of the independent claims). However, applicant notes that such excerpt simply teaches attempting communication with a list of addresses from a database and updating the database with classifications of the addresses. Clearly, classifying addresses does not meet any sort of "comparing the port associated with each risk-assessment module with the stored third set of ports," as claimed by applicant (emphasis added).

With respect to Claim 7 et al., presently incorporated into each of the independent claims, the Examiner has relied on Col.4, lines 25-31 in Fudge to make a prior art showing of applicant's claimed technique "wherein the risk-assessment module is disabled if the port associated with the risk-assessment module does not match at least one port of the stored third set of ports" (see this or similar, but not identical language in each of the independent claims). Applicant respectfully asserts that such excerpt relied on by the Examiner merely relates to determining whether each "address is simply designated as belonging to a non-shareable device." Clearly, determining whether addresses are associated with non-shareable devices does not even remotely suggest any sort of disabling of a risk-assessment module, let alone "if the port associated with the risk-assessment module does not match at least one port of the stored third set of ports," as specifically claimed by applicant. Furthermore, Fudge expressly discloses a scan server that

"instantiates appropriate scanning processes as indicated in the profile" (see Col. 3, lines 51-55, but not one that disables any processes.

Applicant further notes that the prior art is also deficient with respect to the dependent claims. For example, with respect to Claim 3 et al., the Examiner has relied on Fudge's disclosed "workstation [that] is included for interfacing to a user who may initiate, monitor, control, or review the analysis performed on network 100 by exposure analysis processor 120" (Col. 3, lines 30-33) to make a prior art showing of applicant's claimed technique "wherein the risk-assessment modules are user-specified." Applicant respectfully asserts that initiating or controlling the general analysis performed on a network does not meet applicant's specific claim language, namely that "the risk-assessment modules are user-specified" (emphasis added).

Again, the foregoing anticipation criterion has simply not been met. A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P009/01.114.01).

Respectfully submitted,
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